

**UNITED STATE BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:

CATHY MICKENS,

Debtor.

**Case No. 19-31323-KLP
Chapter 7**

**TRUSTEE'S MOTION FOR AUTHORIZATION TO OPERATE BUSINESS
OF THE DEBTOR ON A LIMITED BASIS FOR A LIMITED PERIOD**

COMES NOW Roy M. Terry, Jr., Chapter 7 Trustee (the "**Trustee**") for the bankruptcy estate of Cathy Mickens (the "**Debtor**"), by counsel, and pursuant to 11 U.S.C. § 721, and files his Motion for Authorization to Operate the Business of the Debtor on a Limited Basis and for a Limited Period (the "**Motion**"), and in support thereof respectfully states as follows:

1. On March 13, 2019, the Debtor filed a voluntary petition seeking relief under Chapter 7 of the United States Bankruptcy Code.
2. Roy M. Terry, Jr. was appointed interim Chapter 7 Trustee. The § 341 meeting of creditors is scheduled to be held April 22, 2019 at 10:00 a.m.
3. Pursuant to Debtor's schedules as filed, the Debtor has an interest in real property located at 11443 145th Street, Jamaica, New York 11436 (the "**Property**").
4. Schedule A/B indicates the value of the Property to be \$374,000.00. Schedule D also indicates that the Property is secured by a deed of trust benefitting Mr. Cooper as mortgage lender with a loan balance of \$261,684.40.
5. Although Schedule A also declares the Property to be Debtor's primary residence, the Property was actually leased prepetition by the Debtor to Crystal Dowe and Mwanza Goulding (the "**Lease**"). The Lease is understood to expire in June, 2020, and requires that the

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Chapter 7 Trustee

tenant make monthly rental payments of \$1,600.00 plus pay utilities. On information and belief, rent payments are current through March, 2019.

6. Debtor is not current in her mortgage payments to Mr. Cooper. On information and belief, Debtor's last payment to Mr. Cooper was made on December 14, 2018, in the amount of \$1,896.43.

7. The Trustee has been contacted by BK Global as agent for Mr. Cooper. BK Global proposes that the Trustee make use of its services to liquidate the Property, subject to a minimum guaranteed carve-out for the bankruptcy estate.

8. Subject to verification of the Property's condition and value, the Trustee has interest in liquidating the Property for the benefit of creditors. Based upon the Schedule A value of \$374,000.00 and the Schedule D mortgage payoff of \$261,684.40, the Property has significant equity over and above the payoff to Mr. Cooper. While appreciative of the mortgage lender's offer, the Trustee is more interested in the apparent equity than in the proposed, guaranteed carve-out.

9. The employment of a sales agent and a sale motion will come later. At present, the Trustee seeks authority from the Court to collect the monthly rents from the Property commencing with April, 2019, and—to the extent possible—then make the monthly mortgage payments to Mr. Cooper. The Trustee understands that these acts may constitute operating a business.

10. Section 721 provides:

The court may authorize the trustee to operate the business of the debtor for a limited period, if such operation is in the best interest of the estate and consistent with the orderly liquidation of the estate.

11 U.S.C. § 721. Such authorization is appropriate where the interim operation of the Debtor's business is to complete work in progress if the final product will realize a net return greater than would the component parts. See 2 COLLIERS ON BANKRUPTCY ¶ 721.01[1], at 721-3 (Alan N. Resnick & Henry J. Sommer eds., 15th ed. rev. 2008).

11. The Trustee has determined, in the exercise of his business judgment, that the limited operation of the Debtor's business--for the purpose of collecting rents from the lease of the Property, and then applying those rents collected against the monthly debt service obligation to the mortgage lender--is in the best interests of the estate.

WHEREFORE, the Trustee respectfully requests that the Court enter an order, substantially in the form attached hereto, authorizing him to collect tenant rents paid pursuant to the Lease, and then to apply those rents against the monthly debt service obligation to Mr. Cooper as mortgage lender, together with such other and further relief as the Court deems just and proper.

Respectfully submitted, this 4th of April, 2019

/s/ Roy M. Terry, Jr.
Roy M. Terry, Jr., VSB No. 17764
SANDS ANDERSON PC
P.O. Box 2188
Richmond, VA 23218-2188
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Chapter 7 Trustee

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2019, a true and correct copy of the foregoing motion was sent electronically through the Court's electronic filing system and/or first-class mail, postage-prepaid, to:

Robert B. Van Arsdale
Assistant U.S. Trustee
Office of the U.S. Trustee
701 E. Broad St., Suite 4304
Richmond, VA 23219

Cathy Mickens
2621 Reba Court
Glen Allen, VA 23060
Debtor

Veronica D. Brown-Moseley, Esquire
Boleman Law Firm, P.C.
P.O. Box 11588
Richmond, VA 23230
Counsel for the Debtor

Crystal Dowe and Mwanza Goulding
11443 145th Street
Jamaica, New York 11436

Gene T. Anton, Esquire
Law Office of Gene T. Anton
775 Park Ave, Suite 255
Huntington, NY 11743
Counsel for Crystal Dowe and Mwanza Goulding

/s/ Roy M. Terry, Jr.

**UNITED STATE BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:

CATHY MICKENS,

Debtor.

**Case No. 19-31323-KLP
Chapter 7**

**ORDER GRANTING MOTION FOR AUTHORIZATION
TO OPERATE BUSINESS OF THE DEBTOR**

THIS MATTER is before the Court on the Chapter 7 Trustee's Motion for Authorization to Operate the Business of the Debtor on a Limited Time (the "**Motion**"). The Trustee seeks authorization to operate the Debtor's business by collecting tenant rents paid pursuant to the Lease of Debtor's property located at 11443 145th Street, Jamaica, New York 11436 (the "**Property**"), and then applying those rents against the monthly debt service obligation to Mr. Cooper as mortgage lender secured against the Property. The Trustee further asks that the authorization continue until the Property is either sold or abandoned by the Trustee. Upon consideration of the Motion, the Court finds that the described operation of the business is in the best interests of the Debtor's estate. Therefore, it is hereby

ORDERED that the Trustee is authorized to collect tenant rents paid pursuant to the lease of the Property, and then to apply those rents against the monthly debt service obligation to Mr. Cooper as mortgage lender secured against Debtor's property.

Date:

**KEITH L.PHILLIPS
UNITED STATES BANKRUPTCY COURT**

Entered on Docket:

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Chapter 7 Trustee

I ask for this:

/s/ Roy M. Terry, Jr.

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SANDS ANDERSON PC
P.O. Box 2188
Richmond, VA 23218-2188
Telephone: 804.648.1636
Chapter 7 Trustee

LOCAL RULE CERTIFICATION

Pursuant to Local Rule 9022-1, I certify that all necessary parties have endorsed the foregoing Order.

/s/ Roy M. Terry, Jr.

PARTIES TO RECEIVE COPIES:

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2621 Reba Court
Glen Allen, VA 23060
Debtor

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